

REMARKS

Claim 5 was previously canceled.

Claims 1, 4, and 6 were amended.

Claims 1 to 4 and 6 to 20 are pending in the application.

Applicants respectfully traverse the rejections for at least the following reasons.

Claim Rejection Under 35 U.S.C. § 101:

Claims 1 to 4 and 6 to 13 were rejected under 35 U.S.C. § 101 for claiming non-statutory subject matter. While the rejection may not be agreed with, claims 1, 4, and 6 have been amended without prejudice to clarify which statutory class the method is tied to. Applicants respectfully request the § 101 rejection be withdrawn.

Claim Rejection Under 35 U.S.C. § 102(b):

Claims 1 to 18 were rejected under 35 U.S.C. § 102(b) based upon alleged public use or sale of the invention with reference to the “2000 Development Requests at HERTUG (Higher Education and Research Institutions)” [*sic*] as seen at <http://web.mit.edu/her/devreq/votedevreq00.htm> (“HERUG reference”) at item 7.

The public use bar under 35 U.S.C. 102(b) arises where the invention **is in public use** before the critical date and is ready for patenting. *Invitrogen Corp. v. Biocrest Manufacturing L.P.*, 424 F.3d 1374, 76 USPQ2d 1741 (Fed. Cir. 2005). As explained by the court: The proper test for the public use prong of the § 102(b) statutory bar is whether the purported **use**: (1) was accessible to the public; or (2) was commercially exploited. Commercial exploitation is a clear indication of public use, but it likely requires more than, for example, a secret offer for sale. Thus, the test for the public use prong includes the consideration of evidence relevant to experimentation, as well as, *inter alia*, the nature of the activity that occurred in public; public access to the use; confidentiality obligations imposed on members of the public who observed the use; and commercial exploitation... That evidence is relevant to discern whether the use was a public use that could raise a bar to patentability, but it is distinct from evidence relevant to the ready for patenting component of *Pfaff*'s two-part test, another necessary requirement of a public use bar. *Id.* at 1380, 76 USPQ2d at 1744 (citations omitted). See M.P.E.P. § 2133.03(a).

Claim 1 states:

receiving data of a new transaction that includes a revenue item;

executing a RIB rule to determine an increase to an expenditure budget; storing the budget increase in a node of an expenditure budget data structure with an indication that the node represents an increase in the expenditure budget; and

storing the budget increase in an identified node of a revenue budget data structure with an indication that the node represents an increase in the revenue budget, wherein values in the expenditure budget data structure balance with values in the revenue budget data structure.

The Office cites the comment of item 7: “[i]t would make sense to unify the systems reaction to processes which do not finally lead to payments.” This comment is related to the development request, which states, “[w]hen RIB is set to increase budget on payment of invoice, only documents of value types 57 and 66 activate RIB, we require that this is extended to other value type 54 transactions which will never be technically paid and stay at value type 54.” Applicants respectfully request withdrawal of the outstanding rejections because the Office’s analysis does not demonstrate an anticipatory public use.

There are several analytical problems with the outstanding rejection. First and foremost, the Office Action seems to equate claim 1 to any method that performs any RIB process. Claim 1 has very clear recitations, which require management of two data structures – an expenditure budget data structure and a revenue budget data structure – in response to RIB processing. Nothing in the cited comment refers to any such structures. Accordingly, the Office has no basis to suggest that this comment demonstrates that a public use has occurred.

The Office also states that: “It should be noted that 35 U.S.C. 102(b) may create a bar to patentability either alone, if the device in public use or placed on sale anticipates a later claimed invention, or in conjunction with 35 U.S.C. 103, if the claimed invention would have been obvious from the device in conjunction with the prior art.” Office Action at ¶ 8. Stating further, “[t]he disclosure of RIB (Revenue Increasing Budget) rules clearly allows one of ordinary skill in the art to anticipate any additional rules which would be used to deal with specific revenue changes that result in the increase of a particular revenue or expenditure budget.” First, this statement is wholly conclusory, and relies on the irrelevant HERUG reference, with no other prior art to substantiate the claim of obviousness. Second, as has already been argued, the present invention is not merely “any additional rule[] which would

be used to deal with specific revenue changes that result in the increase of a particular revenue or expenditure budget.” Applicants submit, again, that HERUG could not possibly be evidence of prior use, for at least the reasons stated above, and Applicants respectfully request reconsideration of Applicants claims, and that the rejection be withdrawn.

Please note the comment no. 7 appears to have been submitted by representatives from the University of Cape Town, not by anyone at SAP. It is not clear what product has been referenced. Nevertheless, Applicants’ specification, at ¶¶ 01-04, describes certain RIB-based functionality that was present in prior enterprise management applications and the limitations of such functionality. For example, RIB processes of known systems did not increase revenue budgets in response to RIB-sensitive transactions, which caused reporting problems for some organizations (specification, ¶ 04). As noted above, claim 1 defines elements that directly address such problems. The HERTUG reference discloses none of this subject matter.

Applicants respectfully request withdrawal of the outstanding § 102 (b) reference. The HERTUG reference does not provide sufficient disclosure on which to perform an element-for-element analysis against the pending claims.

Claim Rejections Under 35 U.S.C. § 103(a):

Claims 1, 4, 6, 14, 17, 19, and 20 stand rejected as obvious over a PowerPoint® slide presentation regarding, Introduction to Management Accounting 12/e, Horngren/Sundem/Stratton, 2002, Prentice Hall Business Publishing (“Prentice”), in view of U.S. Patent No. 6,275,813 (“Berka”), and in further view of U.S. Patent No. 7,131,579 (“Kim”). Claims 2, 3, 7 to 13, 15, 16, and 18 stand rejected as obvious over Prentice, Berka, Kim, and U.S. Patent No. 6,073,108 (“Peterson”). Applicants request withdrawal of the outstanding rejections because they are based on a cited reference (Kim) that is not prior art to this application. The present application was filed December 10, 2003. The earliest U.S. filing date of the Kim reference is December 20, 2004, over a year after the priority date of the present application. The Kim reference is not valid prior art against the present application and, therefore, the rejections to claims 1 to 4, and 16 to 20 should be withdrawn.

In an effort to expedite prosecution, Applicants will outline below the specific deficiencies of the other cited references.

Claims 1, 4, 6, 14, and 17:

Claims 1, 4, 6, 14, and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over a PowerPoint® slide presentation regarding, Introduction to Management Accounting 12/e, Horngren/Sundem/Stratton, 2002, Prentice Hall Business Publishing (“Prentice”), in view of U.S. Patent No. 6,275,813 (“Berka”), and in further view of U.S. Patent No. 7,131,579 (“Kim”).

Claim 1:

Prentice is again cited for the general and known accounting principles regarding flexible budgets. Berka is cited against the specific features of the present claims, in view of Kim, which is not valid prior art. Specifically, Berka is cited as disclosing, “a computerized system of double-entry financial accounting and, in particular, to a method of entering data from financial transactions . . . according to known accounting theory of debit and credit.” Berka at 1:11-26. However, the “known accounting theory of debit and credit” is not applicable to the features of claim 1. As Berka explains, “any financial transaction can be defined by a single posting record that includes, apart from its reference number, date, currency and monetary amount, a category directional code consisting of a destination category and a source category.” Berka at 1:50-54. In claim 1 however, the source of a revenue item would be an external party making a payment, while the destination would be the internal party receiving the revenue. Likewise, the source of a budgeted expense is the internal account, while the destination is an external party receiving the budgeted payment. This has nothing to do with “storing *the budget increase* in a node of an expenditure budget data structure with an indication that the node represents an increase in the expenditure budget; **and** storing *the budget increase in a node of a revenue budget data structure* with an indication that the node represents an increase in the revenue budget, wherein values in the expenditure budget data structure balance with values in the revenue budget data structure.”

It is well known in the art that credit/debit accounting methods are not descriptive of RIB rule dynamic budgeting. The two have incompatible differences. First, as is well known and fully described in Berka, credit/debit accounting requires the credit amount to be equal to the debit amount. However, it is well known in the accounting art that a revenue does not necessarily equal a budget increase. For example, a RIB rule may specify that an expenditure budget will increase by some fraction of an incoming revenue. Second, credit/debit accounting methods require one side to decrease equal to another side increasing, whereas

claim 1 calls for an equal **addition** to both budgets. *See* e.g., Figure 3b. As discussed, credit/debit accounting methods are not descriptive of RIB rules, and thus Berka does not disclose the features of claim 1. For at least this reason, Applicants respectfully request the rejection be withdrawn.

Claim 4:

In addition to Kim being invalid prior art, Berka, and known credit/debit accounting, are inapplicable to the feature of “storing expenditure budget items in a database, **so that the revenue budget items balance with the expenditure budget items.**” The credit/debit accounting of Berka “records actual transactions as transfers of money between two” accounts. Berka at Abstract. A revenue budget is not an account, an expense budget is not an account, and a RIB rule does not transfer money between accounts. For at least these reasons, claim 4 should be allowed.

Claim 6:

In addition to Kim being invalid prior art, Berka, and known credit/debit accounting, are inapplicable to the features of “an expenditure budget database to store the budget item, and a revenue budget database to store the budget item, wherein the RIB rule processing system is configured to maintain a balance between the expenditure budget database and the revenue budget database.” The credit/debit accounting of Berka “records actual transactions as transfers of money between two” accounts. Berka at Abstract. A revenue budget is not an account, an expense budget is not an account, and a RIB rule does not transfer money between accounts. For at least these reasons, claim 4 should be allowed.

Claim 14:

In addition to Kim being invalid prior art, Berka, and known credit/debit accounting, are inapplicable to the feature of “store the budget increase in an identified node of an expenditure budget data structure, **and** store the budget increase in an identified node of a revenue budget data structure such that the values in the expenditure budget data structure balance with the values in the revenue budget data structure.” The credit/debit accounting of Berka “records actual transactions as transfers of money between two” accounts. Berka at Abstract. A revenue budget is not an account, an expense budget is not an account, and a RIB rule does not transfer money between accounts. For at least these reasons, claim 4 should be allowed.

Claim 17:

In addition to Kim being invalid prior art, Berka, and known credit/debit accounting, are inapplicable to the feature of “storing **revenue budget items in a database**, each item including a marker to indicate whether the revenue budget item was generated according to a RIB rule; **[and]** storing **expenditure budget items in a database**, so that the revenue budget items balance with the expenditure budget items.” The credit/debit accounting of Berka “records actual transactions as transfers of money between two” accounts. Berka at Abstract. A revenue budget is not an account, an expense budget is not an account, and a RIB rule does not transfer money between accounts. For at least these reasons, claim 4 should be allowed.

Claims 2, 3, 7 to 13, 15, 16, and 18 to 20:

Claims 2, 3, 7 to 13, 15, 16, and 18 to 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Prentice, Berka, Kim, and in further view of U.S. Patent No. 6,073,108 (“Peterson”).

Claims 2, 3, 7 to 13, 15, 16, and 18 to 20, all depend from one of claims 1, 4, 6, 14, and 17. Since Peterson does not cure, nor was it asserted as curing, the deficiencies discussed above with respect to Prentice, Berka, and Kim, claims 2, 3, 7 to 13, 15, 16, and 18 to 20 should be allowed for at least the same reasons as discussed above with regard to the respective independent claims. Therefore, Applicants respectfully request the rejections withdrawn, and the claims be allowed.

CONCLUSION

Applicants respectfully assert that all of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding objections and rejections. Applicants believe that the present application is in condition for allowance.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Kenyon & Kenyon Deposit Account No. **11-0600**. If needed, Applicants request an extension of time to reply to the Advisory Action and the Office Action made final.

The Examiner is invited to contact the undersigned at the telephone number below to discuss any matter concerning this application.

Respectfully submitted,

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